IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 23RD AUGUST 2007 / 1ST BHADRA 1929

Bail Appl..No. 5064 of 2007()

CRMP.2635/2007 of D.C. & SESSIONS COURT,KOLLAM
CRIME NO.241/07 OF POOYAPPALLY POLICE STATION

.....

PETITIONER/ACCUSED

VISAKH BABU, S/O.BABU, AGED 19 YEARS,
PEZHUKONAM PALACE, NEDUMANKAVU,
VAKKANADU MURI, KAREEPRA VILLAGE.

BY ADV. SRI.V.V.RAJA
SRI.M.T.SURESHKUMAR

RESPONDENTS: COMPLAINANT

STATE OF KERALA THORUGH THE CIRCLE
INSPECTOR OF POLICE, EZHUKONE POLICE STATION
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U. NAZAR.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 23/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. NO. 5064 of 2007

Dated this the 23rd day of August, 2007

ORDER

Application for regular bail. The petitioner – a person aged about 19 years, now faces allegations for offences punishable, inter alia, under Secs.376 and 306 of the IPC. A girl aged about 14 years – sister of a close friend of the petitioner, committed suicide on 23/6/07. She committed suicide by hanging. An F.I.R. was registered under the caption "unnatural death" and enquiry under Sec.174 of the Cr.P.C. commenced. The post-mortem certificate allegedly revealed that the girl was used to sexual intercourse. The eyes of suspicion fell on the petitioner. Certain materials have been collected to indicate that the petitioner was in love with the deceased girl. There are indications to suggest that the petitioner had sexual intercourse with that girl. The girl being one aged below 14 years, if sexual intercourse is indicated, that must be held to amount to an offence of rape under law.

The petitioner was arrested on 26/7/07. He continues in custody from that date.

2. The learned counsel for the petitioner submits that even accepting the entire allegations, the petitioner does not deserve to be detained in custody any longer. He is also a very young person. He is a student of Plus 2 course in the same school in which the deceased was a 9th Standard student. Even accepting all the allegations, the learned counsel for the petitioner submits the petitioner does not deserve to continue in custody. Appropriate conditions may be imposed and the petitioner may be enlarged on bail, submits the learned counsel for the petitioner.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the allegations reveal great depravity of mind. The petitioner was the friend of the 14 year old girl. He had exploited the relationship and had indulged in sexual intercourse with that girl below the age of consent. This amounts to an offence of rape. Her suicide is also attributable to such relationship. Therefore, the offence under Sec.306 of the IPC is also revealed. In these circumstances, the petitioner may not be enlarged on bail, urges the learned Public

Prosecutor.

4. I have considered all the relevant inputs. Notwithstanding the opposition by the learned Public Prosecutor, I am satisfied that the petitioner, in his late teens, can now be released on bail subject to appropriate terms and conditions. In coming to this conclusion, I have taken note of all the relevant inputs including the nature and gravity of the allegation, the quality and quantum of the materials collected, the age of the petitioner as well as the deceased, the fact that they were both students of the same school and the stage of investigation. Appropriate conditions can be imposed to allay any legitimate apprehensions of the Investigator/the learned Public Prosecutor.

5. **In the result:**

(a) The application is allowed.

(b) The petitioner shall be released on bail on the following terms and conditions:

(i) The petitioner shall execute a bond for Rs.25,000/- with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(ii) The petitioner shall make himself available for

interrogation before the Investigating Officer on all Mondays and Fridays between 10 a.m. and 12 noon for a period of three months.

(iii) The petitioner shall not enter the jurisdiction of the Pooyappally Police Station until further orders without prior permission of the learned Magistrate, except for the purpose of complying with Condition No.(ii) above.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge